

Message Text

LIMITED OFFICIAL USE

PAGE 01 SANTIAGO 01589 012103Z

73

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 CG-00 OFA-01 DLOS-04 L-03

TRSE-00 /030 W

----- 077748

R 011928Z MAR 76

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 7427

LIMITED OFFICIAL USE SANTIAGO 1589

EO 11652: N/A

TAGS: EWWT, CI

SUBJECT: DISCRIMINATORY SHIPPING PRACTICES

REF: STATE 45402

1. SUMMARY. EMBASSY APPRECIATIVE OF DEPUTY ASSISTANT SECRETARY BILLER'S INTERVENTION WITH AMBASSADOR TRUCCO. TEXTS OF RESOLUTION 98 AND ORDER 431 PURSUANT TO IT BEING TRANSMITTED TELEGRAPHICALLY. DEPARTMENT WILL NOTE THAT RESOLUTION 98, WHICH ITSELF ONLY GIVES EFFECT TO LAST PARA OF DL 1297 BY FINDING NO USG DISCRIMINATION AGAINST CHILEAN SHIPS, DOES NOT REMEDY DL 1297'S EFFECTIVE BAR TO US-FLAG CARRIAGE OF WAYPORT CARGO. FOR THIS REASON, AND AGAINST POSSIBILITY THAT RESOLUTION 98 AND ORDER 431 MAY THEMSELVES BE ENFORCED IN DISCRIMINATORY MANNER AGAINST US SHIPPING, WE TRUST THAT DEPARTMENT AND FMS WILL MOVE THROUGH PRELIMINARY STEP OF SECTION 21 AS QUICKLY AS POSSIBLE IN ORDER TO GENERATE DATA USEFUL TO SUPPORT OUR INTERVENTIONS HERE, AND TO BE IN A POSITION TO APPLY SECTION 19 SHOULD THIS PROVE NECESSARY. END SUMMARY.

2. RESOLUTION 98, SIGNED ON JANUARY 26, AND EFFECTIVE AS OF FEBRUARY 4, IMPLEMENTS THE FINAL PARAGRAPH OF DECREE LAW 1297 BY ACKNOWLEDGING US SHIPPING RECIPROCITY WITH CHILE. HENCE, PRUDENTIAL AND LYKES WILL BE ABLE TO TRANSPORT UP TO 50 PERCENT

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 SANTIAGO 01589 012103Z

OF CHILEAN GENERAL EXPORT CARGO TO US GULF, ATLANTIC AND PACIFIC

PORTS. ON ITS FACE, THIS RETURNS THE SITUATION TO THE FIFTY-FIFTY SPLIT WHICH OBTAINED BEFORE LAST YEAR'S INTERPRETATION OF THE VALUE-ADDED TAX (VAT) AS A SUBSIDY GAVE CHILEAN FLAG SHIPS A PRESCRIPTIVE RIGHT TO ALL EXPORT CARGOES.

3. KEY QUESTION WITH REGARD TO REQUIREMENT OF FIFTY-FIFTY SPLIT IS HOW IT IS ENFORCED. IN PRE-VAT PERIOD, IT BEING APPARENT THAT CHILEAN FLAG SHIPPING PICKED UP MORE US-BOUND CARGO THAN DID US-FLAG SHIPPING, IT WAS NOT CONSIDERED NECESSARY TO BE CONCERNED OVER WHICH SPECIFIC CARGOES WENT TO WHICH FLAG. NO WAIVERS WERE REQUIRED IN THIS EARLIER PERIOD. LYKES AND PRUDENTIAL WERE HAPPY WITH AN ARRANGEMENT WHICH GAVE THEM DE FACTO THE BENEFIT OF OPEN COMPETITION, AND WOULD BE PLEASED TO RETURN TO IT AGAIN.

4. WITH PROMULGATION OF RESOLUTION 98, HOWEVER, IT NOW APPEARS THAT FIFTY-FIFTY SPLIT WILL BE APPLIED TO ALLOCATION OF INDIVIDUAL CARGOES. ORDER NUMBER 431 TO THE PRESIDENT OF THE CENTRAL BANK (CB) SIGNED BY MINTRANSPORT GARIN ON JANUARY 29, AS WE READ IT, ASKS THE CB TO STAMP 50 PERCENT OF ALL EXPORT CARGO MANIFEST FOR LYKES OR PRUDENTIAL AND TO REPORT TO THE MINISTRY OF TRANSPORT THE ALLOCATION THUS MADE. ACCORDING TO A SOURCE IN THE MINISTRY OF TRANSPORT, SUCH ALLOCATION WOULD BE BASED ON EXPORT REGISTRATIONS, AND WOULD BE MADE DAILY AND AT RANDOM, AT LEAST IN THEORY.

5. DEPARTMENT WILL OBSERVE THAT 98/431 IN EFFECT PROPELS US SHIPPING INTO A KIND OF NORTHBOUND CARGO POOL, WITHOUT ITS CONSENT AND UNDER RULES WHICH THE SHIPPING COMPANIES DID NOT THEMSELVES NEGOTIATE. OPEN COMPETITION WOULD NOT EXIST. WE HAVE AN ADDITIONAL CONCERN, THAT THE ALLOCATION PROCESS MAY NOT BE AS RANDOM AS THE CHILEANS SAY IT WILL BE. IF THE GAME CONTINUES TO BE PLAYED AS IT HAS BEEN IN RECENT PAST, THE LESS HIGH-PAYING CARGOES WILL BE ALLOCATED TO US-FLAG CARRIERS. IF, ON THE OTHER HAND, ALLOCATION IS MADE ON TRULY RANDOM BASIS, A SITUATION MIGHT ARISE WHICH WOULD BE FAVORABLE TO US SHIPPING COMPANIES. UNDER DE FACTO OPEN COMPETITION IN PAST, US-FLAG SHIPS PICKED UP LESS THAN FIFTY PERCENT OF US-BOUND CARGOES. ASSUMING NO DISCRIMINATION ON BASIS OF REVENUE YIELD, US-FLAG SHIPS MIGHT REPEAT MIGHT NOW BE ABLE TO COUNT ON A FULL FIFTY LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 SANTIA 01589 012103Z

PERCENT WITH ENHANCED REVENUES TO THEIR OWNERS.

6. ECON COUNSELOR HAS ASKED PRUDENTIAL REP (GORMAN) TO CONVENE THE AGENTS' COMMITTEE, TO HAVE THAT COMMITTEE EXPLORE WITH MIN TRANSPORT AND CB SPECIFICALLY HOW RESOLUTION 98 AND ORDER 431 WILL AFFECT THEM, AND THEN TO NOTIFY CONCERNED EMBASSIES OF WHAT THEY FIND OUT. ECON COUNSELOR IS ARRANGING APPOINTMENT WITH CHIEF OF MARITIME DEPARTMENT OF MINTRANSPORT. WE WILL

REPORT ALL THESE REACTIONS TO DEPARTMENT. WE SUSPECT THAT GOC WILL TAKE THE POSITION THAT 98/431 DOES US SHIPPING A FAVOR. WE ALSO BELIEVE THAT GAIN OR LOSS FROM 98/431, IF ANY, WILL BE HARD TO DOCUMENT EXCEPT OVER TIME, ON THE BASIS OF EXPERIENCE.

7. IN MEANTIME, WE STILL HAVE TO TAKE UP WITH CHILEANS THE MATTER OF WAYPORT CARGO PRESENTLY BARRED TO US SHIPPING BY DL 1297. THIS, TOO, WILL REQUIRE ASSESSMENT OF RECENT LOSSES OF CARGOES, AND LIKELIHOOD OF LOSS IN FUTURE. WE HAVE REASON TO BELIEVE THAT INFORMATION SUPPLIED BY CSAV (CHILEAN-FLAG COMPANY) TO THE GOC, INCLUDING JUNTA MEMBER ADMIRAL MERINO AND ODEPLAN MINISTER DIRECTOR KELLY, MISSTATES THE PERCENTAGES OF CARGO ACTUALLY CARRIED BY US-FLAG VERSUS CHILEAN-FLAG SHIPPING. DATA DEVELOPED BY SECTION 21 PROCEDURES WOULD BE MOST PERSUASIVE ON ARGUING NOT ONLY THE CASE FOR ACCESS TO WAYPORT CARGO, BUT FOR A RETURN TO DE FACTO OPEN COMPETITION, SHOULD THE ALLOCATIVE PROCESS NOW CONTEMPLATED WORK TO US-FLAG DISADVANTAGE. WE HOPE, TOO, THAT DEPARTMENT AND FMS MAKE SECTION 19 PROCEDURES A REAL AND TIMELY POSSIBILITY, SHOULD WE NEED THEM.
POPPER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARINE TRANSPORTATION, DISCRIMINATION, INTERVENTION, RESOLUTIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 01 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976SANTIA01589
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760078-0357
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603107/aaaadqqf.tel
Line Count: 135
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 45402
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 14 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 JUL 2004 by coburnhl>; APPROVED <05 NOV 2004 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DISCRIMINATORY SHIPPING PRACTICES
TAGS: EWWT, CI, US, (BILLER, JOEL W), (TRUCCO)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006